

Minutes of the Maine Real Estate Commission

July 20, 2006

MEMBERS PRESENT

Winfred Stevens, Chairman
Earl Black
Sharon Millett
Jeffrey Mitchell

STAFF PRESENT

Carol Leighton, Director
Karen Bivins, Deputy Director
Robert Perkins, Assistant Attorney General
Judy Phillips, Examiner
Marilyn Lugner, Education Coordinator
Susan Greenlaw, Secretary

MEMBERS ABSENT

David Kitchen
Susan Lewis Hodgkins

Location: Central Conference Room

Start: 9:00 a.m.

Adjourn: 5:50 p.m.

Agenda Modifications

A motion was made by Jeffrey Mitchell and seconded by Sharon Millett to add the following to the agenda. Unanimous.

- I. Proposed Consent Agreement
 - A. #2006-REC-2771
- II. Proposed Dismissals
 - A. #2004-REC-146
 - B. #2005-REC-45

Commission Minutes

A motion was made by Sharon Millett and seconded by Jeffrey Mitchell to approve the minutes of the June 15, 2006 meeting as written. Unanimous.

Adjudicatory Hearings

The Chair opened the hearing in the matter of Director v. Margo Stanley. The Director was present and represented by Assistant Attorney General Robert Perkins. Stanley was present and represented by attorney Michael Hodgins. Public deliberations were conducted at the close of the hearing.

A motion was made by Sharon Millett and seconded by Earl Black to find Stanley in violation of Count I - 32 M.R.S.A. §13067(1)(D). Unanimous.

A motion was made by Sharon Millett and seconded by Earl Black to find Stanley in violation of Count II - 32 M.R.S.A. §13067(D). Unanimous.

A motion was made by Sharon Millett and seconded by Jeffrey Mitchell to find Stanley in violation of Count III – 32 M.R.S.A. §13067(1)(A). Unanimous.

A motion was made by Sharon Millett and seconded by Earl Black to order the immediate revocation of Respondent's broker license. Unanimous.

The Chair opened the hearing in the matter of Director v. Dani O'Halloran. The Director was present and represented by Assistant Attorney General Robert Perkins. O'Halloran was present and not represented by an attorney. Public deliberations were conducted at the close of the hearing.

A motion was made by Earl Black and seconded by Jeffrey Mitchell to find O'Halloran in violation of 32 M.R.S.A. §§13067(1)(F) and 13197(1). Black, Millett, and Mitchell voted in the affirmative; Stevens opposed. Motion carried.

A motion was made by Earl Black and seconded by Jeffrey Mitchell to order O'Halloran to pay a fine in the amount of \$100 within 30 days. Unanimous.

The Chair opened the hearing in the matter of Director v. Catherine Pierce. The Director was present and represented by Assistant Attorney General Robert Perkins. Pierce was present and not represented by an attorney. Public deliberations were conducted at the close of the hearing.

A motion was made by Sharon Millett and seconded by Earl Black to find Pierce in violation of 32 M.R.S.A. §§13067(1)(F) and 13197(3), and Chapter 370 Section 10(A). Unanimous.

A motion was made by Sharon Millett and seconded by Earl Black to order Pierce to pay a fine in the amount of \$600 within 30 days and to submit a course certificate certifying successful completion of the required core course "Offers and Counter Offers" within 30 days to be applied to her license renewal in 2006. Unanimous.

The Chair opened the hearing in the matter of Director v. Kristina Savard. The Director was present and represented by Assistant Attorney General Robert Perkins. Savard was not present nor represented by an attorney. Public deliberations were conducted at the close of the hearing.

A motion was made by Sharon Millett and seconded by Earl Black to find Savard in violation of 32 M.R.S.A. §13067(1)(L). Unanimous.

A motion was made by Sharon Millett and seconded by Jeffrey Mitchell to order the immediate revocation of the Respondent's associate broker license. Unanimous.

Draft Commission Decisions

A motion was made by Sharon Millett and seconded by Earl Black to accept the Decision and Order in the matter of Director v. Darren C. McMullen. Unanimous.

A motion was made by Sharon Millett and seconded by Earl Black to accept the Decision and Order in the matter of Director v. Felisa D. Ricks. Unanimous.

A motion was made by Sharon Millett and seconded by Earl Black to accept the Decision and Order in the matter of Joseph G. Quinn v. Director. Unanimous.

Proposed Consent Agreements

#2006-REC-2770: Earl Black recused and left the room. A motion was made by Sharon Millett and seconded by Jeffrey Mitchell to accept the Proposed Consent Agreement. Millett, Mitchell, and Stevens voted in the affirmative; none opposed. Motion carried

A motion was made by Sharon Millett and seconded by Jeffrey Mitchell to accept the Proposed Consent Agreements in case numbers 2006-REC-2427, 2006-REC-2772, and 2006-REC-2771. Unanimous.

Dismissed Complaints

#2005-REC-3: Winfred Stevens recused and left the room. A motion was made by Sharon Millett and seconded by Earl Black to accept the Proposed Dismissal. Black, Millett, and Mitchell voted in the affirmative; none opposed. Motion carried.

A motion was made by Sharon Millett and seconded by Jeffrey Mitchell to accept the Proposed Dismissals in case numbers 2004-REC-135, 2006-REC-2680, 2004-REC-146, and 2005-REC-45. Unanimous.

Danielle Kenney – request for reconsideration of fine payment schedule

A motion was made by Sharon Millett and seconded by Jeffrey Mitchell to grant the request for an extension of the fine payment to October 1, 2006. Unanimous.

Legal Opinion re: Is Approval of a Continuing Education Program the Granting of License?

Members reviewed a memo prepared by A.A.G. Perkins regarding this issue.

Director's Report

FAQ – Review: FAQ – Chapter 410, Section 6 - The members agreed the purpose of this rule is to require meaningful disclosure of agency cooperation and compensation policies that may impact a client's interests. The rule requires real estate agencies to include a statement disclosing the agency's policy on cooperating and compensating other agencies and if the agency policy is not to compensate all other agencies in the same manner, this policy to not compensate

all other agencies in the same manner must be included in a statement in the brokerage agreement. In addition, the statement must further notify the client that the policy may limit participation of other agencies.

During the discussion, it was noted that inclusion of this statement in brokerage agreements has resulted in clients seeking additional information regarding compensation policies.

ARELLO District 1 Meeting Report: Carol Leighton submitted her report from the District I Meeting held June 25-26, 2006 in Mystic, Connecticut.

The following agenda items were tabled to the next meeting:

1. Federal Trade Commission – June 15, 2006 Correspondence
2. Consumer Federation of America news release *“How the Real Estate Cartel Harms Consumers and How Consumers Can Protect Themselves”*
3. *“Redefining Realtor Relationships and Responsibilities: The Failure of State Regulatory Responses”* – Ann Morales Olaza’bal 2003 edition of the Harvard Journal on Legislation
4. Continuing education audit non-compliance - minimum sanctions via consent agreement

Next Meeting Scheduled for August 30, 2006

The meeting was adjourned at 5:50 p.m.

This report respectfully submitted,

Winfred A. Stevens
Chairman

Carol J. Leighton
Director